

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KAMIL MCFADDEN,	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	
	:	
JEFFREY BEARD, et al.,	:	NO. 09-5952
Respondents.	:	

EXPLANATION AND ORDER

This Court previously entered an order (Doc. No. 5) directing the Clerk of Quarter Sessions of Philadelphia County to file with the Clerk of this Court the state court record in the matter of Commonwealth v. Kamil McFadden, No. 02-12-0899 2/2 (convicted on November 12, 2003; sentenced on January 9, 2004). On January 22, 2010, we were provided with the Quarter Sessions file. With respect to notes of testimony, that file contains transcripts only from the sentencing on January 9, 2004; a hearing in municipal court on December 11, 2002; and one volume of notes from trial, of November 10, 2003. While the file contains briefs from the parties presented to the PCRA Court, it does not include the parties' briefs on appeal to the Superior Court of the dismissal of the PCRA petition.

Respondents have appended to their answer pertinent trial court and Pennsylvania Superior Court opinions in this case, as well as copies of a few other relevant items. As we have begun to review the pleadings to prepare our Report, however, it is clear that we will be required to review additional items, many of which are cited by the parties in their pleadings. In light of the fact that these items are not contained among the records we received from the Clerk of Quarter Sessions, we must ask Respondents to provide us with a copy of these materials.

AND NOW, this 8th day of December, 2010, in light of the foregoing and pursuant to Rule 5(c) of the Rules Governing Section 2254 Cases, **IT IS HEREBY ORDERED THAT** the District Attorney of Philadelphia County shall submit to the Court, on or before December 17, 2010, copies of the following items:

1. Notes of Testimony of trial – all volumes *except* “Trial (Jury) Volume I November 10, 2003”;
2. Petitioner’s *pro se* brief filed with the Pennsylvania Superior Court on PCRA appeal (believed to be on or about August 2, 2007);
3. the Commonwealth’s brief filed with the Superior Court on PCRA appeal (believed to be on or about December 27, 2007 and docketed on April 21, 2008); and
4. Petitioner’s reply brief filed with the Superior Court on PCRA appeal (believed to be on or about July 30, 2008).

BY THE COURT:

/s/ David R. Strawbridge
DAVID R. STRAWBRIDGE
UNITED STATES MAGISTRATE JUDGE